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State of California by and through California  
Highway Patrol and Officer Ramon Silva

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

SANDRA KIRKMAN AND  
CARLOS ALANIZ,  
INDIVIDUALLY AND AS  
SUCCESSORS-IN-INTEREST TO  
JOHN ALANIZ, DECEASED,

Plaintiff,

v.

STATE OF CALIFORNIA;  
RAMON SILVA; AND DOES 1-10,  
INCLUSIVE,

Defendant.

Case No.: 2:23-cv-07532-DMG-SSC

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
DEFENDANTS STATE OF  
CALIFORNIA BY AND THROUGH  
CALIFORNIA HIGHWAY PATROL  
AND OFFICER RAMON SILVA'S  
MOTION IN LIMINE TO EXCLUDE  
GRUESOME POST-INCIDENT AND  
POST-MORTEM PHOTOGRAPHS**

**[No. 2 of 4]**

Courtroom: 8C  
Judge: Hon. Dolly M. Gee

FPTC: March 25, 2025, 2:00 p.m.

Trial Date: April 15, 2025, 8:30 a.m.

**INTRODUCTION**

This admittedly tragic case is about a May 4, 2022 officer involved shooting. CHP Officers Jonathan Van Dragt and Ramon Silva responded to the I-105 freeway because John Alaniz was purposely trying to kill himself by jumping in front of cars. Upon contact with the officers, Alaniz ignored commands to remove his hands from his pocket until he pulled objects from his pocket and immediately charged directly at the officers with his hands together

1 and outstretched in front of him in the classic “shooter’s stance.” Reasonably  
2 believing Alaniz had a gun and was going to shoot (as anyone would), Silva  
3 responded with objectively reasonable deadly force. Alaniz was shot three times  
4 and died.

5 Plaintiffs seek to introduce scene photographs. It is unclear at this time  
6 which photographs they intend to use but as one can image those of Alaniz lying  
7 bloody on the ground with bullet holes in him are gruesome, gory and bloody.

8 Plaintiffs seek to introduce Alaniz’s post-mortem autopsy photographs.  
9 They have shown defendants 11 photos they intend to use. Though defendants  
10 appreciate the attempt to limit the number of photographs, they remain  
11 gruesome, gory and bloody photographs of the three bullet wounds (and a head  
12 wound it seems) Alaniz sustained.

### 13 ARGUMENT

#### 14 **A. Gruesome, Gory And Graphic Photographs Of Alaniz Are Irrelevant** 15 **To The Issues**

16 Irrelevant evidence is inadmissible. Fed. R. Evid. 402. Evidence is  
17 relevant when “it has any tendency to make a fact more or less probable that it  
18 would be without the evidence” and “the fact is of consequence in determining  
19 the action.” Fed. R. Evid. 401. “Relevancy is not an inherent characteristic of  
20 any item of evidence, but exists only as a relation between an item of evidence  
21 and a matter properly provable in the case.” *Sprint/United Mgmt. Co. v.*  
22 *Mendelsohn*, 552 U.S. 379, 387, (2008) (quoting Fed. R. Evid. 41, Adv. Comm.  
23 Note).

24 Determining relevancy of evidence rests with this Court’s sound  
25 discretion. *Id.* The key question is whether the “item of evidence tend to prove  
26 the matter sought to be proved.” Fed. R. Evid. 401, Adv. Comm. Note

27 The central issue in this case is whether Silva’s use of deadly force was  
28 unreasonable under the totality of circumstances. The use of graphic and

1 gruesome photographs of Alaniz's body after being shot while on scene and after  
2 being stripped naked and cut open during the autopsy have no relevance to the  
3 central and dispositive issue in this case.

4 **B. Gruesome, Gory And Graphic Post-Shooting Scene Photographs And**  
5 **Autopsy Photographs Are Substantially More Prejudicial Than**  
6 **Probative**

7 Under Federal Rule of Evidence 403:

8 The court may exclude relevant evidence if its probative value is  
9 substantially outweighed by a danger of one or more of the  
10 following: unfair prejudice, confusing the issues, misleading the  
11 jury, undue delay, wasting time, or needlessly presenting cumulative  
12 evidence.

13 There is no dispute that Alaniz was shot three times. There is no dispute  
14 regarding where the bullets struck Alaniz and there is no dispute regarding their  
15 path of travel. The medical examiner and the parties' respective forensic  
16 pathologists will all testify about these issues. There is simply no need for  
17 pictures like these:





Autopsy photographs (and similar scene photographs) are certainly cumulative and will cause undue delay and a waste of time.

They are also unfairly prejudicial. “Unfair prejudice is an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one.” *United States v. Anderson*, 741 F.3d 938, 950 (9th Cir. 2013); *see also Silva v. Chung*, 2019 U.S. Dist. LEXIS 85667, at \*7 (D. Haw. May 21, 2019) (“Evidence is unfairly prejudicial when its probative value is outweighed because of its ability to appeal to the jury's sympathies, arouse jurors' sense of horror, provoke a jury's instinct to punish, and trigger other intense human reactions.”).

Graphic photographs can illicit improper emotional responses from the jury. *See United States v. Ponce-Galvan*, 2024 U.S. App. LEXIS 7460, at \*3 (9th Cir. Mar. 29, 2024) (“The photograph is graphic, and the district court could



1 conclude it risked eliciting an improper emotional response from the jury.”)  
2 (unpub.).

3 “Death images ‘may appeal to the jury's sympathies, arouse jurors' sense  
4 of horror, provoke a jury's instinct to punish, and trigger other intense human  
5 reactions.’” *United States v. Bash*, 2025 U.S. Dist. LEXIS 4219, at \*99 (E.D.  
6 Cal. Jan. 8, 2025); *Nash-Perry v. City of Bakersfield*, 2022 U.S. Dist. LEXIS  
7 145507, at \*57 (E.D. Cal. Aug. 12, 2022) (same).

8 Courts need to be “cognizant of the danger that the autopsy [and scene]  
9 photographs present, as many are graphic portrayals of the decedent's injuries  
10 and wounds.” *Sanchez v. Jiles*, 2012 U.S. Dist. LEXIS 200372, at \*13-14 (C.D.  
11 Cal. June 14, 2012). With autopsy and post shooting scene photos, “[t]here is a  
12 strong possibility that such photographs will inflame the jury's sympathies and  
13 distract them from the relevant issues in dispute.” *Id.* at \*14 .

14 Because there is no dispute about how Alaniz died, an autopsy report  
15 exists, the medical examiner will be a witness at trial and both sides have expert  
16 forensic pathologies, gruesome scene and autopsy photographs must be excluded  
17 or seriously limited. *See Sanchez*, 2012 U.S. Dist. LEXIS 200372, at \*14  
18 (“Moreover, as the cause of death is not in question, such photographs will add  
19 little to autopsy reports and other evidence showing that Don Richard died  
20 because of the shooting. Given their potentially cumulative nature, such  
21 photographs may not only cause undue prejudice, but waste jury time. Fed. R.  
22 Evid. 403.”).

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1 **CONCLUSION**

2 This Court should exclude irrelevant, cumulative and prejudicial autopsy  
3 and scene photographs.

4  
5 Dated: March 14, 2025

Dean Gazzo Roistacher LLP

6  
7 By: /s/ Lee H. Roistacher

8 Lee H. Roistacher  
9 Attorneys for Defendants  
10 State of California by and through  
11 California Highway Patrol and  
12 Officer Ramon Silva

13 **CERTIFICATION OF COMPLIANCE**

14 The undersigned, counsel of record for Defendants State of California by  
15 and Through California Highway Patrol and Officer Ramon Silva, certify that this  
16 Motion in Limine to Exclude Exclude Gruesome Post-Incident and Post-Mortem  
17 Photographs [No. 2 of 4] contains 932 words, which:

18  X  complies with the word limit of L.R. 11-6.1.

19 \_\_\_\_\_ complies with the word limit set by court order dated [date].

20 Dated: March 14, 2025

/s/ Lee H. Roistacher

21 Lee H. Roistacher , declarant